

REMARKS/ARGUMENTS

This document is responsive to the Office action dated April 5, 2007, setting forth a shortened three-month statutory period for reply expiring on July 5, 2007. This response includes a two-month extension of time; thus, the deadline for this response is extended to September 5, 2007. Claims 6-12 and 73 are now pending in the application. The Examiner is respectfully requested to reconsider and withdraw the rejections in review of the remarks contained therein.

Response to Claim Rejections under 35 U.S.C. § 103

Claims 6-12 and 73 have been rejected under 35 U.S.C. § 103 as being obvious and unpatentable over Sechrest et al. in view of Ish and Gautier. Applicants respectfully request the Examiner to withdraw this rejection.

Applicants respectfully point out that the Gautier reference has not been applied to any of the claims. On September 5, 2007, Examiner Amerson was notified of this fact, and agreed that if another Office action was issued, the action would be non-final.

Claim 6 is patentable over the applied references by calling forth a resistance engine utilizing elastomere springs. Sechrest et al. does not appear to teach or suggest a resistance engine utilizing elastomere springs. Sechrest et al. describes a functional trainer or multi-exercise functional apparatus 10 comprising a pair of right 20 and left 30 arms which are both pivotable respectively around axes 42, 40 and both rotatable respectively around axes 50, 60. See Col. 4, lines 8-13. FIG. 6 shows a cabling arrangement for interconnecting the handles 80, 90 to the weight resistance mechanism 380. See Col. 6, lines 27-28. A single flexible cable 390 is connected between the handles 80, 90, the cable 390 being routed through the arms 20, 30 and through/past the pivot positions where the pivot axes 40, 42 are located. See Col. 6, lines 29-32. The single cable 390 is further routed around a series of pulleys 391-399 which are all mounted such that when either handle 80, 90 is pulled outwardly from the distal ends of the arms, the cable 390 necessarily pulls downwardly on pulley 395 which is connected to a second cable 410, which is routed around pulleys 411, 412 and interconnected at its distal end 415 to the frame member 178. See Col. 6, lines 32-39. As pulley 395 is pulled downwardly, pulley 412 is pulled upwardly. See Col. 6, lines 39-40. Pulley 412 is connected to the weight resistance mechanism 380 and, when pulley 412 is pulled upwardly, the weight resistance mechanism 380 is pulled upwardly along with pulley 412 via the weight bearing rod 287, FIG. 2, thus creating the

opposing force to the user's pulling on one or both of the handles. See Col. 6, lines 40-45. In other words, Sechrest et al. appears to describe a weight resistance mechanism and a plurality of pulleys connected to a pair of handles via a cable, not a resistance system utilizing elastomere springs, as stated in Claim 6.

Like Sechrest, Ish fails to teach or suggest a weight resistance mechanism utilizing elastomere springs. Ish describes and shows a multi-station exercise machine. See Abstract and Fig. 1. The exercise machine includes a padded back rest 12h and seat 12j. See Col. 3, lines 31-32. A standard weight stack unit 17 is supported on a cross-member 10m on the frame 10, which extends between the column channels 10b-10c and is welded thereto at a position raised above the base channel 10e. See Col. 3, lines 4-7. However, Ish does not appear to describe or show a weight resistance mechanism utilizing elastomere springs, as stated in Claim 6. Therefore, for at least the reasons stated above, neither Sechrest nor Ish, alone or together, teach or suggest each and every limitation of Claim 6.

Additionally, Claim 6 is patentable over the applied references by calling forth "a spiral pulley positioned between said resistance engine and said cable." Neither Sechrest et al. nor Ish teaches or suggests a spiral pulley as recited in Claim 6. In the Office action, the Examiner states, "Sechrest et al. . . . do not disclose . . . a spiral pulley." "Regarding the spiral pulley," the Examiner states, "it would have been an obvious matter of design choice to a person of ordinary skill in the art to modify the device of Sechrest by utilizing a spiral pulley because Applicant has not disclosed that a spiral shape provides an advantage, is used for a particular purpose, or solves a stated problem." See Office Action dated 04/05/2007, P. 2. Applicants respectfully disagree with the Examiner.

Referring to the Applicants' present application, "[t]he spiral pulley 180 is shown in more detail in FIGS. 8-10." See Applicants' originally filed application, P. 14, line 4. The spiral pulley 180 includes a front side having a splined shank 184 that engages the splined hub 186 of the elastomeric band member of the resistance engine. See Applicants' originally filed application, P. 14, lines 5-8. A "spiral track is designed in the spiral pulley to compensate for the non-constant (or non-isotonic) increasing load created by the elastomeric spring force, which occurs when the cable 54 is extended by the user. Without the spiral pulley, the load increases as the amount the cable is extended further by the user." See Applicants' originally filed application, P. 14, lines 12-16. The spiral pulley compensates to create a substantially flat constant load by increasing the moment arm as the cable is pulled outwardly during the exercise. See Applicants' originally filed application, P. 14, line 16-19. Thus, the spiral pulley of Claim 6 is not

obvious, since the spiral shape of the pulley provides an advantage, has a particular purpose, and solves a stated problem. Therefore, for at least the reasons stated above, Claim 6 is patentable under 35 U.S.C. § 103 over the applied references.

Independent Claim 7 is patentable over the applied references by calling for a resistance engine utilizing elastomere springs and/or a means for modifying the increasing load into a constant load when a user actuates the resistance engine. For at least the same reasons as stated above for Claim 6, Claim 7 is patentable under 35 U.S.C. § 103 over the applied references.

Claim 8 depends from claim 7. Accordingly, this dependent claim is itself patentable over the cited references. Applicants make this statement without reference to or waiving the independent bases of patentability in this dependent claim.

Independent Claim 9 is also patentable over the applied references by calling for a means for providing a constant load to a user that utilizes resilient bands. Sechrest et al. does not appear to disclose a means for providing a constant load to a user that utilizes resilient bands. For at least this reason, Claim 9 is patentable under 35 U.S.C. § 103 over the applied references.

Claims 10-12 depend from Claim 9. Accordingly, these dependent claims are themselves patentable over the applied references. Applicants make this statement without reference to or waiving the independent bases of patentability in each dependent claim.

Independent Claim 73 is patentable over the applied references by calling for a resistance engine utilizing elastomere springs. For at least the reasons stated above for Claim 6, Claim 73 is patentable under 35 U.S.C. § 103 over the applied references.

CONCLUSION

In light of the above amendments, these rejections are moot. The Assignee expressly reserves the right to traverse these rejections in a continuation application or other related application.

Appl. No. 09/802,835

This response is filed with a Petition for a two-month Extension of Time and a request to charge Deposit Account No. 04-1415 for the extension of time in the amount of \$450.00 for the Extension of Time fee. The Assignee believes no further fees or petitions are due with this filing. However, should any such fees or petitions be required, please consider this as authorization therefor and please charge such fees to Deposit Account number 04-1415.

Respectfully submitted,

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